

FARMINGTON CITY – CITY COUNCIL MINUTES

AUGUST 18, 2020

WORK SESSION

Present: Mayor Jim Talbot; City Manager Shane Pace; City Councilmembers Scott Isaacson, Shawn Beus, Amy Shumway, and Rebecca Wayment; City Recorder Holly Gadd; City Deputy Recorder Heidi Bouck; Community Development Director Dave Petersen; Assistant City Manager/Economic Development Director Brigham Mellor; Planning and GIS Specialist Shannon Hansell; City Attorney Todd Godfrey; and Recording Secretary Deanne Chaston.

REQUEST REMOVING RESIDENTIAL FROM GMU ZONE

Community Development Director **Dave Petersen** said this zone text amendment removes residential uses as an option in the General Mixed Use (GMU) Zone, as there is no mechanism in place now to prevent all remaining GMU areas to develop as residential. City Manager **Shane Pace** said for the Office Mixed Use (OMU) Zone, there is something in the ordinance that prevents housing from coming in unless the City Council allows it, but GMU doesn't have that.

Petersen said the Planning Commission considered removing residential from GMU in late February, but tabled it to allow time for one property owner to receive entitlement. The Evans family/E&H Land LTD got their Project Master Plan (PMP) in June with a mix of uses that makes sense. The Evans family owns 62 acres of property that is zoned Residential Mixed Use (RMU) and GMU. The plans so far are showing two office buildings in the GMU, which is great and **Petersen** hopes for more to come. It also shows 600 units of residential, as a majority of the 67 acres will be residential. However, he is worried about it becoming more residential than already proposed. While the City is required to abide by the PMP approved in June, the Evans can pull it and instead submit an application using the underlying GMU zoning, which could make way for 2,500 residential units. **Petersen** said this area can't meet the needs of that many residential units. **Mayor Jim Talbot** said there may be barely enough water, but not enough sewer. **Petersen** said the City plans to use Tax Increment Financing to put in Commerce Drive, but that can only happen if office is built there. It cannot be used as an incentive for residential uses.

City Attorney **Todd Godfrey** said the property owners don't currently have a right to anything other than what is showing on their PMP. The City is now considering removing residential from GMU for future applications or amendments sought. While the Evans have vested rights with the PMP that has been approved, they will not be able to change their minds going forward.

Pace said it is a weakness in the GMU Zone that it doesn't require a ratio of residential to other uses. Without the change, applicants can come in with 100 percent of any one use.

Petersen said he met with **Zach Hartman**, who represents the Evans family, and he understands the City's concerns. **Hartman** understands the City's concerns, and offered to sign an agreement that they will not do residential. However, due to past experiences with agreements like this, the City is not open to that.

AGEAN VILLAGE PHASE II PLAT AMENDMENT AND MODERATE INCOME HOUSING AGREEMENT – JOHN SALTZGIVER/JMSRE INVESTMENTS LLC

Planning and GIS Specialist **Shannon Hansell** said the applicant wants three lots: two regular for sale, and a third that would be a moderate housing unit. She included tables from the Davis Community Housing Authority, qualification tables, and details on two affordable housing options: for-purchase or for-rent, both with a 15- or 99-year option.

Mayor Talbot said it feels like spot zoning to him. He is unsure who is going to monitor the agreement without having something recorded on the deed. If the City wanted any units to be for affordable housing, that should have been done before the zone change as an incentive. **Godfrey** said the City is the agency to regulate and watch over that, although they are not very good at that yet. He mentioned that the Davis Community Housing Authority has more experience.

Councilman **Scott Isaacson** said he has doubts about if increased density should be allowed in this area. It feels like spot zoning to him, and he does not see the justification for increased density. However, he does support affordable housing.

Councilwoman **Amy Shumway** also said affordable housing is needed in the City, but more research and work needs to go into it. She is having a hard time with the parking element of this project, as well as the administrative side of affordable housing. She would like more “for-purchase” affordable housing in the City in the future.

Councilwoman **Rebecca Wayment** noted that this property was up-zoned to a duplex, and now the applicant is pushing for a triplex, which she thinks is too dense for that area. While the City does need affordable housing, it should be done where bonus density won’t be onerous to current residents. The applicant already got a density bonus, she said. **Petersen** said the applicant feels this is a compromise, as he originally wanted four units.

City Manager **Shane Pace** directed the City Council to separate the agenda item into two decisions: if three lots are too much, and affordable housing. He said the City will have multiple opportunities for affordable housing in the future that may not impact the neighborhood.

Councilman **Shawn Beus** said this is a simple solution, unique opportunity, and can make a difference for one family. He said affordable housing has to start somewhere.

REGULAR SESSION

Present: Mayor Jim Talbot; City Manager Shane Pace; City Councilmembers Scott Isaacson, Shawn Beus, Amy Shumway, and Rebecca Wayment; City Recorder Holly Gadd; City Deputy Recorder Heidi Bouck; Community Development Director Dave Petersen; Planning and GIS Specialist Shannon Hansell; Assistant City Manager/Economic Development Director Brigham Mellor; City Attorney Todd Godfrey; and Recording Secretary Deanne Chaston.

CALL TO ORDER:

Mayor **Jim Talbot** called the meeting to order at 7:00 p.m.

Roll Call (Opening Comments/Invocation/Pledge of Allegiance)

Councilman **Scott Isaacson** offered the invocation, and the Pledge of Allegiance was led by Councilman **Shawn Beus**.

PUBLIC HEARINGS:

Zone Text Change Request removing Residential from the GMU Zone

Community Development Director **Dave Petersen** presented this agenda item, which has already had a public hearing. The Planning Commission tabled this in February for the E&H Land LTD Project Master Plan (PMP) application to run its course. The City Council approved that application in June, so now he has an entitlement. The property is zoned Residential Mixed Use (RMU) and General Mixed Use (GMU) with offices proposed in the east corner, and the PMP entitles the developer to do residential already to the tune of 2:1, two residential acres to every one acre of nonresidential acres (63 percent to 37 percent). The project includes 37.4 acres of undeveloped land in the GMU zone. **Petersen** said he wants to prevent past occurrences like Farmington Crossing.

Mayor Talbot opened the Public Hearing.

Zach Hartman, (395 Parleys Road, Park City, Utah), addressed the Council. He was hired by the Evans family to take this project through the development process. He said both the City and his client have fear going into this, and the Evans family is asking the City not to remove residential uses from the GMU zone.

Mayor Talbot closed the Public Hearing. He said the PMP is in place, and the City is not taking any rights away from the Evans family for what has been approved in the master plan. He said the applicant has the ability to do what the PMP says they can do.

Petersen said if the market goes south, and an applicant can't do office and retail as called for in their PMP, they may want the ability to come back and apply for residential uses in the GMU. However, their PMP already includes a significant area of GMU residential. If the entire thing went residential, the City's ability to fund Commerce Drive is compromised.

Councilman **Shawn Beus** said he understands the owner's perspective, but he feels it is time to remove residential from the GMU Zone. He said it is important to set standards ahead of time and consider what the community as a whole wants.

Councilwoman **Amy Shumway** said it is important to change this so history doesn't repeat itself, and to avoid what happened to Farmington Crossing. The City needs to have more control of this area in order to get the needed residential to nonresidential ratios.

Councilwoman **Rebecca Wayment** said she is comfortable with this change at this time, as the Evans already have a PMP in place with a residential component. She said it is a good faith effort for the City and future developers to set up clear boundaries and expectations of what mixed use areas should look like. The result will be a better product for a mixed use zone.

Motion:

Beus moved to approve the ordinance removing residential uses as permitted uses in the GMU zone including Findings 1-4.

Findings include:

1. The proposed amendments are reasonably necessary because the GMU zone is intended to provide for a mix of uses including, among other things, commercial, office, retail and multiple unit and attached residential uses. Remaining undeveloped land designated and/or master planned for GMU is in close proximity to the Residential Mixed Use (RMU) zone, a large assisted living facility, and a recent conceptually approved townhome project. If more land in the GMU zone is developed as residential uses these areas will not be "mixed" use, but primarily a single use district contrary to the intent and purposes of this zone.
2. The requested zone text change is consistent with the recently approved Farmington Station II PMP; moreover, other GMU areas outside Farmington Station II PMP are "built-out" and/or are master planned for non-residential uses.
3. The public is best served by the proposed amendments. Presently, a majority of the Farmington work force leaves the community and county to find work elsewhere, which causes congestion and does not support efforts for cleaner air. Moreover, the proposed amendments help diversify the City's tax base by providing more non-residential property taxes, and an increased sales tax base by offering the possibility of a greater day-time population to shop at existing commercial retail areas in Farmington.
4. The proposed amendments are consistent with the City's general plan and in harmony with the objectives and purposes of the Zoning Ordinance, and support the following:
 - a. The Farmington City General Plan is based on the overall goal of creating within the community a healthy, attractive, and pleasant living environment for its residents. This goal is the most significant element underlying the General Plan;
 - b. Provide for harmonious, coordinated, and controlled development within the City;
 - c. Lessening congestion in the streets (including the freeways and interchanges);
 - d. Securing economy in governmental expenditures;

- e. Stabilizing and preserving the property values and encouraging the expansion of the tax base; and
- f. Fostering the city's industries.

Wayment seconded the motion. All Council members voted in favor, 4-0, as there was no opposing vote. Councilman **Brett Anderson** was excused for a family event.

OLD BUSINESS:

Interlocal Agreement for Participation in the Davis CARES Grant Program

Assistant City Manager/Economic Development Director **Brigham Mellor** said all cities in the State of Utah were awarded CARES money through the State. After the mayor, staff and finance departments in each city took a close look at what that money could be spent on, it was decided it would be best used by granting money to small businesses. While the City could have technically operated their own grant program by soliciting applications and distributing the money, Farmington decided to have Davis County administer their \$362,899 specifically for small businesses within the City. Only one city in Davis County is not participating in the small business grants as administrated by the County. He said there were more businesses that applied than there is money to distribute.

City Manager **Shane Pace** said the City plans to spend the other half of their money on police and fire wages from mid-April through mid-June. The Treasury and Davis County have made statements that all fire and police wage costs were related to COVID during that time. After an audit, the City may be able to reimburse themselves about \$350,000 for those costs.

Mayor Talbot said there was such a short timeline to spend the first tranche of CARES money that receipt of the funds was almost put into jeopardy, and the County was better equipped to quickly manage the small business grants. He said the County has been doing a great job fulfilling their fiduciary responsibility and keeping Farmington money within the City. Farmington will be audited by the State and/or federal government. If the money is not used properly, it will have to be paid back. He said Finance Director **Greg Davis** will bring a future accounting of the funds back to the City Council.

Wayment asked for periodic updates from the County as to what businesses the money went to. She wants to make sure Farmington's portion isn't lost somewhere else in the County. **Mayor Talbot** said **Mellor** could provide that list, and it includes over 40 Farmington businesses. The money is due to be distributed to businesses by the end of the month.

Motion:

Councilman **Scott Isaacson** moved to approve the interlocal agreement for participation in the Davis CARES Grant Program between Farmington City and Davis County. The agreement will be effective as of August 18, 2020.

Councilwoman **Amy Shumway** seconded the motion. All Council members voted in favor, as there was no opposing vote.

**Aegean Village Phase II Plat Amendment and Moderate Income Housing Agreement –
John Saltsgiver/JMSRE Investments LLC**

Planning and GIS Specialist **Shannon Hansell** presented this agenda item, a plat amendment into three separate lots for the purpose of constructing three townhomes with two for sale at market rates, and one for-sale unit for affordable housing. The Council needs to decide if to do the plat amendment for three lots, and then separately address questions of affordable housing terms and administration.

Mayor Talbot said this is in a residential neighborhood with single-family zoning, and the applicant was granted two units where there would normally be one. Now the applicant is coming back and saying he wants to do a third unit on this lot. The Council needs to determine if they will approve three units on this lot. If that is approved, the next discussion is the third unit becoming an affordable housing unit. He said this would be setting a precedence to expand the R2 zone from two dwellings to three.

Hansell said there are multiple duplexes along 1470 South, which is why this project was granted an R2 zone. **Isaacson** said this feels like spot zoning. Two units will fit in the neighborhood, but he doesn't think three would. He said those who spoke during an earlier public hearing didn't think three would fit, as they were concerned about parking.

Wayment said she is not opposed to two dwellings there, but she is hard pressed to see how three units and garages would fit there. The other twin homes on 1470 South have more property around them for turn arounds and parking. If it had three dwellings, this project would not have adequate space, and no place for children to play on a corner of a busy street (200 East). She was fine with R2 zoning and a duplex there because it matched the area, but three is pushing it as far as density and safety.

Beus said he feels strongly passionate about the affordable housing movement, and this is the perfect location. He thinks the traffic impact would be minimal, but he doesn't have an answer to the parking situation. He wants to address the affordable housing shortage in Farmington.

Shumway said she likes for-purchase affordable housing for Farmington. However, she feels this location is wrong. She is worried about parking on the site for both residents and guests, as it is on the corner of 200 East, a very fast street. There is no place for children to throw a baseball on the property as currently proposed, and those sorts of units will likely have children. She said the City is not ready to handle the administrative side of affordable housing yet. While she is passionate about affordable housing, she thinks this is the wrong location.

Wayment said she is on board with finding ways to get affordable housing in the City, as it is needed in the future. However, she is not sure this location warrants a density bonus. **Isaacson** agreed.

Mayor Talbot said he understands the need for affordable housing, but since it is new to the City, there needs to be time to figure it out.

Motion:

Wayment moved to deny the request for the plat amendment, limiting the property to one, two-family dwelling based on Council discussion.

Isaacson seconded the motion. **Isaacson, Shumway, and Wayment** voted in favor of the motion. **Beus** opposed. The vote was 3-1, and the motion carried.

Pace said he recommends that the Community Development Director work with the property owner for the possibility of both units being affordable housing, with the City participating in a buy down. **Isaacson** said he likes Pace's idea, and he is in favor of making incentives happen for affordable housing.

SUMMARY ACTION:

Minute Motion Approving Summary Action List

The Council considered the Summary Action List including Flat Rock Ranch License Agreement. Ivory Homes is requesting to install and maintain landscaping with the Right of Ways in the Flatrock Ranch Subdivision. This would be stubbed to the UDOT property to the south and to the Peterson Property to the north. UDOT property may or may not develop until after West Davis Corridor is constructed.

Motion:

Shumway moved to approve the Summary Action list item as noted in the staff report.

Beus seconded the motion. All Council members voted in favor, as there was no opposing vote.

GOVERNING BODY REPORTS:

City Manager Report

Pace presented the Monthly Fire Activity Report for July and Building Activity Report for July.

Farmington is one of five cities in Davis County that applied for a Wasatch Front Regional Council grant for the West Davis Corridor market analysis. The grant was approved for a total of \$150,000. Davis County will be the administrator of the grant. It will help with analysis for the development of interchanges. All City Councilmembers present gave their thumbs up approval for the Mayor to sign the agreement.

Pace said the cross walks at 650 West 500 South, as well as Main Street and 300 North near the Rock Church have been painted and signage is going up shortly. The crosswalks will be functional before the electronic signs arrive. There will be no orange flags. If the 650 West signage is not up by the time school starts, the police will assist.

Pace provided an update on the transportation utility fee that Farmington implemented. It has helped the City get a large amount of road work done, and the current budget is \$680,000. Farmington is one of 13 cities that charge a transportation utility fee. Farmington went through a very thorough public hearing process, equivalent to a truth in taxation hearing in Pace's opinion.

It was also in numerous newsletters. While Farmington's fee was approved on the same night as Pleasant Grove's, it has not had as much attention as Pleasant Grove's.

Libertas was successful in suing Pleasant Grove for their transportation utility fee, and Pleasant Grove appealed it. All 13 cities were confident that the ruling would be turned over on appeal. Then State Auditor **John Dougall** was in contact with Libertas about sponsoring a bill to eliminate transportation utility fees. **Pace** said that is a problem for Farmington, and he has now set up a meeting with Senator **Stuart Adams** to see what he feels about this issue, and to inform him of Farmington's desire to keep it in place. **Adams** represents Farmington, Kaysville and Fruit Heights.

Pace said both residents and businesses pay the transportation utility fee. Residents pay \$3 a month, and businesses pay based on their trip generation. Station Park pays around \$100,000 per year. Residents of other cities pay \$12 a month, which has received more attention than Farmington's.

The State Auditor's Office decided to look generally at fees among cities, and it is not challenging any utility fees but the transportation utility fee. The biggest issue that concerns the judge and auditor is there is not a specific service to the individual resident being received. City Attorney **Todd Godfrey** said it is all directed toward the character of the fee, whether it is used for a general purpose or specific project. Libertas said it is a tax masquerading as a fee, but the judge's ruling didn't say if it was a permitted fee or a tax.

Pace said it will be a tragedy if it comes to repealing the transportation utility fee, and it will have to go to a more defensive situation to grandfather in the 13 cities that currently charge the fee. The judge ruled that Pleasant Grove didn't have to return the fees. **Pace** said that when asked, a vast majority of Pleasant Grove residents preferred a transportation fee to a tax. **Mayor Talbot** says Farmington's biggest hardship is where to make up that \$600,000 that does not have a retail tax base. Taxes may have to be raised.

City Record **Holly Gadd** reminded the Council about the Utah League of Cities and Towns virtual conference on September 23-25.

Mayor Talbot and City Council Reports

Mayor Talbot encouraged City Councilmembers to check in with their committees. He said that life as he has known it for the last seven years is now totally different, as things have shut down, there is little physical interaction, and the City was not able to hold Festival Days.

Mayor Talbot shared information about the liquor store, which is an opportunity for sales tax. For 1.5 years, they tried to look for other locations, including Kaysville, but they were unsuccessful. They have now come into Planning Commission with drawings, which have been reviewed. **Mayor Talbot** said it may be part of a compound with other state entities along with the driver license division, highway patrol, and DMV. He said the project is number two on the list.

Shumway noted recent complaints about the gates at trail crossings. She has been getting similar complaints for nine years, as Farmington has amazing trails, awesome access, and hoards of people using the trails. She would like a comprehensive list of every crossing in Farmington, as that section of the trail is getting a bad rap for the closed gates. She said she would be happy to ride along with **Mellor** to look at every crossing for the active transportation plan, as each needs something different such as flashing lights, paint, signs, gates open, etc.

Isaacson said it is confusing for drivers and pedestrians, especially where he rides it multiple times a day on 1100 South. He is in favor of making it clear that motorists have to stop for pedestrians there, as it would also slow traffic down in the neighborhood. **Wayment** said it is important to educate residents about how to deal with bike crossings, especially questions of who has the right of way.

Pace said the Burke and Clark Lane crosswalks have been budgeted for already, and will have lights associated with them. He said a traffic engineer is needed to make recommendations of what should happen at each trail crossing, to protect the City's liability. He said the gates may help prevent accidents. It is important to figure out Utah Transit Authority (UTA) requirements for these areas.

Wayment asked if there was anything the City could do about the dead lawn at the Post Office, since there is a City detention nearby. It is an eyesore and the Post Office construction is taking years. **Mayor Talbot** answered that there was nothing the City can do. He encouraged City Councilmembers to talk to the Post Master about it, and have residents do the same. The 2,500 square foot remodel there has taken three years, and the original contractor quit in the middle of the project. The City encouraged them to locate a new Post Office on ground they own across the street to create better access, but that is not happening. **Pace** said the Post Office has never maintained that property, and the City was doing it before when it looked like one piece with the City's. **Godfrey** said the City does not have jurisdiction over federal property.

Beus said that some pools in Davis County have tested positive for West Nile virus.

Shumway said she received an email in thanks of resurfacing 1100 West for the first time since the 1980s.

CLOSED SESSION

Motion:

Beus made the motion to go into a closed meeting for the purpose of litigation. **Shumway** seconded the motion, which was unanimously approved.

Sworn Statement

I, **Jim Talbot**, Mayor of Farmington City, do hereby affirm that the items discussed in the closed meeting were as stated in the motion to go into closed session and that no other business was conducted while the council was so convened in a closed meeting.

Jim Talbot, Mayor

Motion:

Wayment made a motion to reconvene to an open meeting. The motion was seconded by **Isaccson**, which was unanimously approved.

ADJOURNMENT

Motion:

Wayment made a motion to adjourn the meeting. **Shumway** seconded the motion, which was unanimously approved.

Holly Gadd, Recorder